

AMENDMENTS TO LB990

Introduced by Judiciary.

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

3 Section 1. Section 28-101, Revised Statutes Supplement, 2017, is
4 amended to read:

5 28-101 Sections 28-101 to 28-1357 and 28-1601 to 28-1603 and section
6 3 of this act shall be known and may be cited as the Nebraska Criminal
7 Code.

8 Sec. 2. Section 28-1201, Revised Statutes Supplement, 2017, is
9 amended to read:

10 28-1201 For purposes of sections 28-1201 to 28-1212.04 and section 3
11 of this act, unless the context otherwise requires:

12 (1) Firearm means any weapon which is designed to or may readily be
13 converted to expel any projectile by the action of an explosive or frame
14 or receiver of any such weapon;

15 (2) Fugitive from justice means any person who has fled or is
16 fleeing from any peace officer to avoid prosecution or incarceration for
17 a felony;

18 (3) Handgun means any firearm with a barrel less than sixteen inches
19 in length or any firearm designed to be held and fired by the use of a
20 single hand;

21 (4) Juvenile means any person under the age of eighteen years;

22 (5) Knife means:

23 (a) Any dagger, dirk, knife, or stiletto with a blade over three and
24 one-half inches in length and which, in the manner it is used or intended
25 to be used, is capable of producing death or serious bodily injury; or

26 (b) Any other dangerous instrument which is capable of inflicting
27 cutting, stabbing, or tearing wounds and which, in the manner it is used

1 or intended to be used, is capable of producing death or serious bodily
2 injury;

3 (6) Knuckles and brass or iron knuckles means any instrument that
4 consists of finger rings or guards made of a hard substance and that is
5 designed, made, or adapted for the purpose of inflicting serious bodily
6 injury or death by striking a person with a fist enclosed in the
7 knuckles;

8 (7) Machine gun means any firearm, whatever its size and usual
9 designation, that shoots automatically more than one shot, without manual
10 reloading, by a single function of the trigger;

11 (8) School means a public, private, denominational, or parochial
12 elementary, vocational, or secondary school, a private postsecondary
13 career school as defined in section 85-1603, a community college, a
14 public or private college, a junior college, or a university;

15 (9) Short rifle means a rifle having a barrel less than sixteen
16 inches long or an overall length of less than twenty-six inches; and

17 (10) Short shotgun means a shotgun having a barrel or barrels less
18 than eighteen inches long or an overall length of less than twenty-six
19 inches.

20 Sec. 3. (1) Except as provided in subsections (3) and (4) of this
21 section, a person under the age of twenty-five years who knowingly
22 possesses a firearm commits the offense of possession of a firearm by a
23 prohibited juvenile offender if he or she has previously been adjudicated
24 an offender in juvenile court for an act which would constitute a felony
25 or an act which would constitute a misdemeanor crime of domestic
26 violence.

27 (2) Possession of a firearm by a prohibited juvenile offender is a
28 Class IV felony for a first offense and a Class IIIA felony for a second
29 or subsequent offense.

30 (3) Subsection (1) of this section does not apply to the possession
31 of firearms by members of the armed forces of the United States, active

1 or reserve, National Guard of this state, or Reserve Officers Training
2 Corps or peace officers or other duly authorized law enforcement officers
3 when on duty or training.

4 (4)(a) Prior to reaching the age of twenty-five years, a person
5 subject to the prohibition of subsection (1) of this section may file a
6 petition for exemption from such prohibition and thereby have his or her
7 right to possess a firearm reinstated. A petitioner who is younger than
8 nineteen years of age shall petition the juvenile court in which he or
9 she was adjudicated for the underlying offense. A petitioner who is
10 nineteen years of age or older shall petition the district court in the
11 county in which he or she resides.

12 (b) In determining whether to grant a petition filed under
13 subdivision (4)(a) of this section, the court shall consider:

14 (i) The behavior of the person after the underlying adjudication;

15 (ii) The likelihood that the person will engage in further criminal
16 activity; and

17 (iii) Any other information the court considers relevant.

18 (c) The court may grant a petition filed under subdivision (4)(a) of
19 this section and issue an order exempting the person from the prohibition
20 of subsection (1) of this section when in the opinion of the court the
21 order will be in the best interests of the person and consistent with the
22 public welfare.

23 (5) The fact that a person subject to the prohibition under
24 subsection (1) of this section has reached the age of twenty-five or that
25 a court has granted a petition under subdivision (4)(a) of this section
26 shall not be construed to mean that such adjudication has been set aside.
27 Nothing in this section shall be construed to authorize the setting aside
28 of such an adjudication or conviction except as otherwise provided by
29 law.

30 (6) For purposes of this section, misdemeanor crime of domestic
31 violence has the same meaning as in section 28-1206.

1 Sec. 4. Section 28-1351, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 28-1351 (1) A person commits the offense of unlawful membership
4 recruitment into an organization or association when he or she knowingly
5 and intentionally coerces, intimidates, threatens, or inflicts bodily
6 harm upon another person in order to entice that other person to join or
7 prevent that other person from leaving any organization, group,
8 enterprise, or association whose members, individually or collectively,
9 engage in or have engaged in any of the following criminal acts for the
10 benefit of, at the direction of, or on behalf of the organization, group,
11 enterprise, or association or any of its members:

12 (a) Robbery under section 28-324;

13 (b) Arson in the first, second, or third degree under section
14 28-502, 28-503, or 28-504, respectively;

15 (c) Burglary under section 28-507;

16 (d) Murder in the first degree, murder in the second degree, or
17 manslaughter under section 28-303, 28-304, or 28-305, respectively;

18 (e) Violations of the Uniform Controlled Substances Act that involve
19 possession with intent to deliver, distribution, delivery, or manufacture
20 of a controlled substance;

21 (f) Unlawful use, possession, or discharge of a firearm or other
22 deadly weapon under sections 28-1201 to 28-1212.04 and section 3 of this
23 act;

24 (g) Assault in the first degree or assault in the second degree
25 under section 28-308 or 28-309, respectively;

26 (h) Assault on an officer, an emergency responder, a state
27 correctional employee, a Department of Health and Human Services
28 employee, or a health care professional in the first, second, or third
29 degree under section 28-929, 28-930, or 28-931, respectively, or assault
30 on an officer, an emergency responder, a state correctional employee, a
31 Department of Health and Human Services employee, or a health care

- 1 professional using a motor vehicle under section 28-931.01;
- 2 (i) Theft by unlawful taking or disposition under section 28-511;
- 3 (j) Theft by receiving stolen property under section 28-517;
- 4 (k) Theft by deception under section 28-512;
- 5 (l) Theft by extortion under section 28-513;
- 6 (m) Kidnapping under section 28-313;
- 7 (n) Any forgery offense under sections 28-602 to 28-605;
- 8 (o) Criminal impersonation under section 28-638;
- 9 (p) Tampering with a publicly exhibited contest under section
- 10 28-614;
- 11 (q) Unauthorized use of a financial transaction device or criminal
- 12 possession of a financial transaction device under section 28-620 or
- 13 28-621, respectively;
- 14 (r) Pandering under section 28-802;
- 15 (s) Bribery, bribery of a witness, or bribery of a juror under
- 16 section 28-917, 28-918, or 28-920, respectively;
- 17 (t) Tampering with a witness or an informant or jury tampering under
- 18 section 28-919;
- 19 (u) Unauthorized application of graffiti under section 28-524;
- 20 (v) Dogfighting, cockfighting, bearbaiting, or pitting an animal
- 21 against another under section 28-1005; or
- 22 (w) Promoting gambling in the first degree under section 28-1102.
- 23 (2) Unlawful membership recruitment into an organization or
- 24 association is a Class IV felony.

25 Sec. 5. Section 28-1354, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 28-1354 For purposes of the Public Protection Act:

- 28 (1) Enterprise means any individual, sole proprietorship,
- 29 partnership, corporation, trust, association, or any legal entity, union,
- 30 or group of individuals associated in fact although not a legal entity,
- 31 and shall include illicit as well as licit enterprises as well as other

1 entities;

2 (2) Pattern of racketeering activity means a cumulative loss for one
3 or more victims or gains for the enterprise of not less than one thousand
4 five hundred dollars resulting from at least two acts of racketeering
5 activity, one of which occurred after August 30, 2009, and the last of
6 which occurred within ten years, excluding any period of imprisonment,
7 after the commission of a prior act of racketeering activity;

8 (3) Until January 1, 2017, person means any individual or entity, as
9 defined in section 21-2014, holding or capable of holding a legal,
10 equitable, or beneficial interest in property. Beginning January 1, 2017,
11 person means any individual or entity, as defined in section 21-214,
12 holding or capable of holding a legal, equitable, or beneficial interest
13 in property;

14 (4) Prosecutor includes the Attorney General of the State of
15 Nebraska, the deputy attorney general, assistant attorneys general, a
16 county attorney, a deputy county attorney, or any person so designated by
17 the Attorney General, a county attorney, or a court of the state to carry
18 out the powers conferred by the act;

19 (5) Racketeering activity includes the commission of, criminal
20 attempt to commit, conspiracy to commit, aiding and abetting in the
21 commission of, aiding in the consummation of, acting as an accessory to
22 the commission of, or the solicitation, coercion, or intimidation of
23 another to commit or aid in the commission of any of the following:

24 (a) Offenses against the person which include: Murder in the first
25 degree under section 28-303; murder in the second degree under section
26 28-304; manslaughter under section 28-305; assault in the first degree
27 under section 28-308; assault in the second degree under section 28-309;
28 assault in the third degree under section 28-310; terroristic threats
29 under section 28-311.01; kidnapping under section 28-313; false
30 imprisonment in the first degree under section 28-314; false imprisonment
31 in the second degree under section 28-315; sexual assault in the first

1 degree under section 28-319; and robbery under section 28-324;

2 (b) Offenses relating to controlled substances which include: To
3 unlawfully manufacture, distribute, deliver, dispense, or possess with
4 intent to manufacture, distribute, deliver, or dispense a controlled
5 substance under subsection (1) of section 28-416; possession of marijuana
6 weighing more than one pound under subsection (12) of section 28-416;
7 possession of money used or intended to be used to facilitate a violation
8 of subsection (1) of section 28-416 prohibited under subsection (17) of
9 section 28-416; any violation of section 28-418; to unlawfully
10 manufacture, distribute, deliver, or possess with intent to distribute or
11 deliver an imitation controlled substance under section 28-445;
12 possession of anhydrous ammonia with the intent to manufacture
13 methamphetamine under section 28-451; and possession of ephedrine,
14 pseudoephedrine, or phenylpropanolamine with the intent to manufacture
15 methamphetamine under section 28-452;

16 (c) Offenses against property which include: Arson in the first
17 degree under section 28-502; arson in the second degree under section
18 28-503; arson in the third degree under section 28-504; burglary under
19 section 28-507; theft by unlawful taking or disposition under section
20 28-511; theft by shoplifting under section 28-511.01; theft by deception
21 under section 28-512; theft by extortion under section 28-513; theft of
22 services under section 28-515; theft by receiving stolen property under
23 section 28-517; criminal mischief under section 28-519; and unlawfully
24 depriving or obtaining property or services using a computer under
25 section 28-1344;

26 (d) Offenses involving fraud which include: Burning to defraud an
27 insurer under section 28-505; forgery in the first degree under section
28 28-602; forgery in the second degree under section 28-603; criminal
29 possession of a forged instrument under section 28-604; criminal
30 possession of written instrument forgery devices under section 28-605;
31 criminal impersonation under section 28-638; identity theft under section

1 28-639; identity fraud under section 28-640; false statement or book
2 entry under section 28-612; tampering with a publicly exhibited contest
3 under section 28-614; issuing a false financial statement for purposes of
4 obtaining a financial transaction device under section 28-619;
5 unauthorized use of a financial transaction device under section 28-620;
6 criminal possession of a financial transaction device under section
7 28-621; unlawful circulation of a financial transaction device in the
8 first degree under section 28-622; unlawful circulation of a financial
9 transaction device in the second degree under section 28-623; criminal
10 possession of a blank financial transaction device under section 28-624;
11 criminal sale of a blank financial transaction device under section
12 28-625; criminal possession of a financial transaction forgery device
13 under section 28-626; unlawful manufacture of a financial transaction
14 device under section 28-627; laundering of sales forms under section
15 28-628; unlawful acquisition of sales form processing services under
16 section 28-629; unlawful factoring of a financial transaction device
17 under section 28-630; and fraudulent insurance acts under section 28-631;
18 (e) Offenses involving governmental operations which include: Abuse
19 of public records under section 28-911; perjury or subornation of perjury
20 under section 28-915; bribery under section 28-917; bribery of a witness
21 under section 28-918; tampering with a witness or informant or jury
22 tampering under section 28-919; bribery of a juror under section 28-920;
23 assault on an officer, an emergency responder, a state correctional
24 employee, a Department of Health and Human Services employee, or a health
25 care professional in the first degree under section 28-929; assault on an
26 officer, an emergency responder, a state correctional employee, a
27 Department of Health and Human Services employee, or a health care
28 professional in the second degree under section 28-930; assault on an
29 officer, an emergency responder, a state correctional employee, a
30 Department of Health and Human Services employee, or a health care
31 professional in the third degree under section 28-931; and assault on an

1 officer, an emergency responder, a state correctional employee, a
2 Department of Health and Human Services employee, or a health care
3 professional using a motor vehicle under section 28-931.01;

4 (f) Offenses involving gambling which include: Promoting gambling in
5 the first degree under section 28-1102; possession of gambling records
6 under section 28-1105; gambling debt collection under section 28-1105.01;
7 and possession of a gambling device under section 28-1107;

8 (g) Offenses relating to firearms, weapons, and explosives which
9 include: Carrying a concealed weapon under section 28-1202;
10 transportation or possession of machine guns, short rifles, or short
11 shotguns under section 28-1203; unlawful possession of a handgun under
12 section 28-1204; unlawful transfer of a firearm to a juvenile under
13 section 28-1204.01; using a deadly weapon to commit a felony or
14 possession of a deadly weapon during the commission of a felony under
15 section 28-1205; possession of a deadly weapon by a prohibited person
16 under section 28-1206; possession of a firearm by a prohibited juvenile
17 offender under section 3 of this act; possession of a defaced firearm
18 under section 28-1207; defacing a firearm under section 28-1208; unlawful
19 discharge of a firearm under section 28-1212.02; possession, receipt,
20 retention, or disposition of a stolen firearm under section 28-1212.03;
21 unlawful possession of explosive materials in the first degree under
22 section 28-1215; unlawful possession of explosive materials in the second
23 degree under section 28-1216; unlawful sale of explosives under section
24 28-1217; use of explosives without a permit under section 28-1218;
25 obtaining an explosives permit through false representations under
26 section 28-1219; possession of a destructive device under section
27 28-1220; threatening the use of explosives or placing a false bomb under
28 section 28-1221; using explosives to commit a felony under section
29 28-1222; using explosives to damage or destroy property under section
30 28-1223; and using explosives to kill or injure any person under section
31 28-1224;

1 (h) Any violation of the Securities Act of Nebraska pursuant to
2 section 8-1117;

3 (i) Any violation of the Nebraska Revenue Act of 1967 pursuant to
4 section 77-2713;

5 (j) Offenses relating to public health and morals which include:
6 Prostitution under section 28-801; pandering under section 28-802;
7 keeping a place of prostitution under section 28-804; labor trafficking,
8 sex trafficking, labor trafficking of a minor, or sex trafficking of a
9 minor under section 28-831; a violation of section 28-1005; and any act
10 relating to the visual depiction of sexually explicit conduct prohibited
11 in the Child Pornography Prevention Act; and

12 (k) A violation of the Computer Crimes Act;

13 (6) State means the State of Nebraska or any political subdivision
14 or any department, agency, or instrumentality thereof; and

15 (7) Unlawful debt means a debt of at least one thousand five hundred
16 dollars:

17 (a) Incurred or contracted in gambling activity which was in
18 violation of federal law or the law of the state or which is
19 unenforceable under state or federal law in whole or in part as to
20 principal or interest because of the laws relating to usury; or

21 (b) Which was incurred in connection with the business of gambling
22 in violation of federal law or the law of the state or the business of
23 lending money or a thing of value at a rate usurious under state law if
24 the usurious rate is at least twice the enforceable rate.

25 Sec. 6. (1) When the petition alleges the juvenile committed an act
26 which would constitute a felony or an act which would constitute a
27 misdemeanor crime of domestic violence, the court shall explain the
28 specific legal consequences that an adjudication for such an act will
29 have on the juvenile's right to possess a firearm. The court shall
30 provide such explanation at the earlier of:

31 (a) The juvenile's first court appearance or, if the juvenile is not

1 present in the court at the time of the first appearance, by written
2 notice sent by regular mail to the juvenile's last-known address; or

3 (b) Prior to adjudication.

4 (2) For purposes of this section:

5 (a) Firearm has the same meaning as in section 28-1201; and

6 (b) Misdemeanor crime of domestic violence has the same meaning as
7 in section 28-1206.

8 Sec. 7. Section 43-2,129, Revised Statutes Supplement, 2017, is
9 amended to read:

10 43-2,129 Sections 43-245 to 43-2,129 and section 6 of this act shall
11 be known and may be cited as the Nebraska Juvenile Code.

12 Sec. 8. Original sections 28-1351 and 28-1354, Reissue Revised
13 Statutes of Nebraska, and sections 28-101, 28-1201, and 43-2,129, Revised
14 Statutes Supplement, 2017, are repealed.